### **RESOLUTION 11-**

### ESTABLISHING AN IMPROVEMENT DISTRICT TO BE KNOWN AS THE TOPAZ DOMESTIC WATER IMPROVEMENT DISTRICT AND SETTING FORTH THE BOUNDARIES THEREOF

WHEREAS, A.R.S § 48-902 authorizes the Cochise County Board of Supervisors to establish county improvement districts; and

WHEREAS, A.R.S. § 48-909(A)(6) authorizes an improvement district to acquire, construct, reconstruct or repair domestic water works; and

WHEREAS, A.R.S. § 48-905 requires that, prior to the establishment of such improvement district the Cochise County Board of Supervisors shall conduct a public hearing, noticed in the manner required by law, at which time any interested property owner may be heard on any matter relating to the establishment of the proposed district; and

WHEREAS, petitions of the owners of one hundred percent of the real property owners within the boundaries of the proposed improvement district to be known as the Topaz Domestic Water Improvement District was filed with the Clerk of the Board on January 26, 2011; and

WHEREAS, pursuant to A.R.S. § 48-905(C), if the petition is signed by the owners of all the real property in the proposed district and if the petitioners provide a copy of record search that shows the names of the owners of all the property in the proposed district, the Board of Supervisors may summarily order the formation of the district and a hearing is not required,

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of Cochise County, Arizona, that:

- 1. That it is the findings of the Cochise County Board of Supervisors that the petition is signed by the requisite number of owners of real property and that the public convenience, necessity and welfare will be promoted by the establishment of an improvement district to be known as the Topaz Water Improvement District.
- 2. The boundaries of this district and the lands to be included therein are as described in the attached Exhibit "A."

### **RESOLUTION 11-**

Re: Establishing an Improvement District to be known as the Topaz Domestic Water Improvement District

Page 2

- 3. That it is the finding of the Cochise County Board of Supervisors that all properties within the area shown in Exhibit "A" will be benefited by the establishment of the proposed District.
- 4. That said District shall be a body corporate with the powers of a municipal corporation for the purpose for which it is organized.
- 5. That the establishment of said district shall be effective upon execution of this Resolution by the Chairman of the Board of Supervisors.
- 6. That the District shall be governed by a three member elected Board of Directors. That until such time as their successors are elected, the initial Board shall consist of the following members:
  - a) Alan Thome
  - b) Walt Thome
  - c) Marty Schwank
- 7. That these first directors shall meet and divide themselves into two classes, as specified in A.R.S. § 48-1012(B), for the purpose of establishing their respective terms. All regular elections shall be held on the first Tuesday of November of each even numbered year beginning in 2012.

PASSED AND ADOPTED this \_\_\_\_\_ day of April, 2011.

Patrick Call, Chairman Cochise County Board of Supervisors		
ATTEST:	APPROVED AS TO FORM:	
	Es Bon	
Katie A. Howard,	Terry Bannon,	
Clerk of the Board	Civil Deputy County Attorney	

### MOYES SELLERS LTD

STEVE WENE • 602-604-2189 • swene@lawms.com 1850 N. Central Ave., #1100 • Phoenix, AZ 85004 • fax 602.274.9135

January 14, 2011

COCHESE COUNTY

COARD OF SUPERVISOR:

2011 JAN 25 A 9: 28

### VIA FEDERAL EXPRESS

Alan Thome Cochise County Land, LLC 4025 E. Presidio Street Mesa, Arizona 85215

Re: Topaz DWID Petition

Dear Alan:

Here is the Petition requesting the establishment of the Topaz Domestic Water Improvement District, with original signatures, for submittal to Cochise County.

Sincerely,

Steve Wene

SW/rbb Enclosure

### PETITION REQUESTING THE ESTABLISHMENT OF THE TOPAZ DOMESTIC WATER IMPROVEMENT DISTRICT OF COCHISE COUNTY, ARIZONA

The undersigned real property owners (Petitioners), as set forth in Exhibit A, hereby petition the Board of Supervisors of Cochise County, Arizona (County), to enter its final order (Resolution) forming a domestic water improvement district acting pursuant to the provisions of Title 48, Chapter 6, Arizona Revised Statutes (A.R.S.), as amended (Improvement District Act).

- 1. Petitioners propose to organize a domestic water improvement district to be named "Topaz Domestic Water Improvement District" (District).
- 2. The proposed District boundaries within the County are delineated by legal description in Exhibit B and map in Exhibit C (Property).
- 3. The District is needed to construct, operate, and maintain a domestic water system and other local improvements, such as wastewater systems at some point in the future, within the Property. The formation of the District and the construction, operation, and maintenance of the improvements will promote public convenience, necessity and welfare. All of the Property will be benefited by these improvements, which are generally outlined in Exhibit D.
- 4. The District is not wholly or partially within: (1) the boundaries of an existing service territory of a public service corporation that provides domestic water or wastewater services as defined by a certificate of convenience and necessity issued by the Arizona Corporation Commission (Commission); or (2) the boundaries of a proposed service territory of public service corporation that provides domestic water or wastewater services as defined by an application for a certificate of convenience and necessity that is pending before the Commission or that has been considered by the Commission within one year before the date this petition is filed.
- 5. The District shall be a special purpose district and a municipal corporation for all applicable purposes. These purposes consist of, but are not limited to, the purposes prescribed in § 48-909(A)(6) as well as the related powers prescribed in A.R.S. § 48-909(B), and A.R.S. § 48-910.
- 6. Petitioners acknowledge that the formation of the District may result in the levy of ad valorem taxes, assessments, and other charges to pay the costs of improvements constructed or acquired by the District and for their operation and maintenance, and that the Property and its owners will be subject to the ordinances, resolutions, and other laws of the District. Petitioners also understand and consent that taxes may be levied on a square footage basis pursuant to A.R.S. § 48-955.
- 7. This Petition is signed by each and every owner of Property within the proposed District boundaries and a copy of a recent title search showing land ownership is attached hereto as Exhibit E.
- 8. Petitioners request that the Board of Supervisors determine that the District be governed by a board of directors composed of three members. Petitioners recommend the following Property owners to serve as the initial board of directors: (1) Alan Thome; (2) Walt Thome; and (3) Marty Schwank.
- 9. Election dates shall be the county wide general election date of each even numbered year, beginning November 2012, and terms of the applicable class shall expire on December 31 following the election.
- 10. The Petitioners represent and understand that this Petition: (1) constitutes a binding obligation; (2) has been validly authorized and executed as verified in Exhibit F; (3) requests that the Board of Supervisors establish the District boundaries in accordance with Exhibit B; and (4) is signed by each and every landowner to be in the District, and such owners hereby waive any requirements of posting, publication, mailing, notice, and hearing otherwise required by the Improvement District Act in connection with the adoption of the Improvement District Act in connection with the adoption of the Improvement and the directors designated without being required to comply with any such provisions for posting, and publication, mailing, notice or hearing.

RECEIVED

RECEIVED COCHISE COUNTY BOARD OF SUPERVISORS

2011 JAN 26 A 9: 28

## EXHIBIT A

### PLEASE INCLUDE YOUR NAME, ADDRESS AND PROPERTY INFORMATION. INDICATE THAT YOU ARE A PROPERTY OWNER AND SIGN ON THE SIGNATURE LINE.

Name of Petitioning Landowner: Cochise County 1900, LLC Land Owned by Petitioning Landowner: Land legally described in Exhibit E Percentage of Land Owned: Undivided 100% Signature of Landowners' Authorized Representative:		
Owner of Cochise County 1900, LLC By Alan E. Thome, Member Manager	10	
Acknowledged before me this 16 day of Sept., 2010, by Alan E. Thome as Manager of Cochise County 1900, LLC.	Memb	er
Notary Public  My commission expires on:  CARLOS A HURTADO  NOTARY PUBLIC ARIZONA  PINAL COUNTY  My Commission Expires  July 26, 2013		
Name of Petitioning Landowner: Cochise County 1900, LLC  Land Owned by Petitioning Landowner: Land legally described in Exhibit E  Percentage of Land Owned: Undivided 100%  Signature of Landowners' Authorized Representative:		-
Owner of Cochise County 1900, LLC By Poncho Holdings, LLC, Member Walter C. Thome, Member	)	
Acknowledged before me this / day of Sept , 2010, by Walter C. Thome as Me Poncho Holdings, LLC, a Member of Cochise County 1900, LLC.	ember	of
Notary Public My commission expires on:  Original County My Commission Expires July 26, 2013  Original County My Commission Expires July 26, 2013	JAN 26 A 9:2	DOLL STAFFORM

Name of Petitioning Landowner: Cochise County 1900, LLC

Land Owned by Petitioning Landowner: Land legally described in Exhibit E

Percentage of Land Owned: Undivided 100%

Signature of Landowners' Authorized Representative:

Owner of Cochise County 1900, LLC By 1900 Investors, LLC, Member

By Marty Schwank, Member Manager

Date: 9-10-10

, 2010, by Marty Schwank as Managing

Acknowledged before me this day of day of , 2010, by Member of 1900 Investors, LLC, a Member of Cochise County 1900, LLC.

Notary Public

My commission expires on:

at 1, LOD

OFFICIAL SEAL JUANITA WEBBER NOTARY PUBLIC - State of Arizona MARICOPA COUNTY My Comm. Expires Oct. 1, 2010

## EXHIBIT B

COCHISE COUNTY
OARD OF SUPERVISORS

### Exhibit AB

#### PARCEL I:

All Section 33, Township 23 South, Range 23 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona;

EXCEPT all coal and other minerals as reserved in Patent to said land.

### PARCEL II:

A Parcel of land located in and being a portion of Section 5, Township 24 South, Range 23 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona, more particularly described as follows:

BEGINNING at the Northeast corner of said Section 5;

thence South 00° 08' 29" East, 725.07 feet along the line of said section to a point on the Northerly Highway 92 Right-of-Way;

thence North 81° 27' 32" West, 4693.10 feet along said Right-of-Way to a tangent point on a curve to the left having a central angle of 00° 45' 29" and a radius of 11558.93 feet; thence 152.95 feet along the arc of said curve along said Right-of-Way boundary to a point; thence North 89° 55' 26" East, 4790.67 feet to the POINT OF BEGINNING.

#### PARCEL III:

A Parcel of land located in and being a portion of Section 4, Township 24 South, Range 23 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona, more particularly described as follows:

BEGINNING at the Northwest corner of said Section 4;

thence North 89° 55' 27" East, 2641.57 feet along the North line of said Section to the North quarter corner;

thence South 00° 08' 26" East, 1125.43 feet to a point on the Northerly Highway 92 Right-of-Way:

thence North 81° 27' 32" West, 2672.18 feet along said Right-of-Way boundary to a point of intersection along the West line of the said Section;

thence North 00° 08' 29" West, 725.07 feet along the line of said Section to the POINT OF BEGINNING.

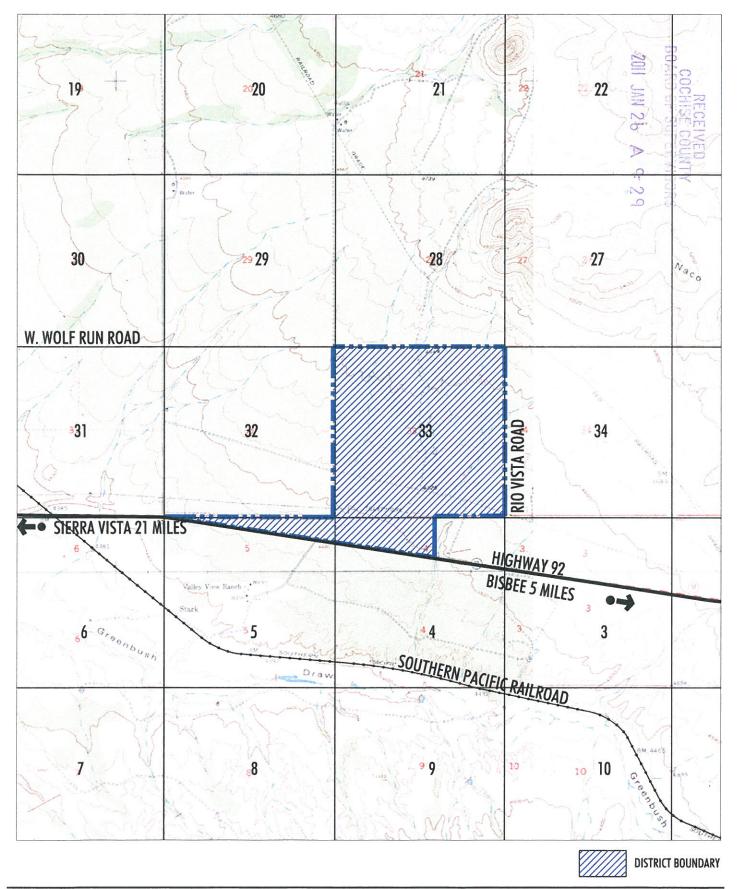
Also all of Section 33, Township 23 South, Range 23 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona.

EXCEPT all coal and other minerals as reserved in the patent of the land.

RECEIVED COCHISE COUNTY BOARD OF SUPERVISORS

# EXHIBIT C

COCHISE COUNTY
OARD OF SUPERVISORS





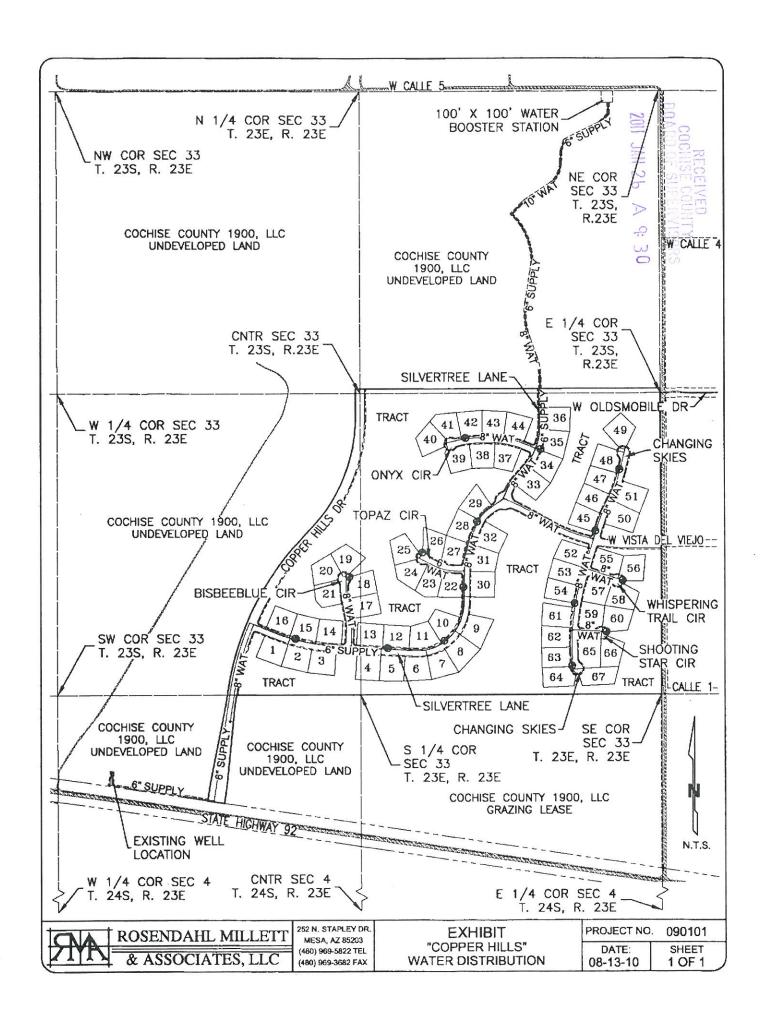


COCHISE COUNTY, ARIZONA
SEC 33, T 23S, R23E G&SRB&M
& PORTIONS OF
SEC4, T24S, R23E G&SRB&M AND SEC5, T24S, R23E, G&SRB&M



# EXHIBIT D

COCHISE COUNTY OARD OF SUPERVISORS



## EXHIBIT E

BOARD OF SUPERVISORS

## Pioneer Title Agency, Inc.

REPORT OF TITLE

OUR NO. 520727-001-AEB YOUR NO.

Dated: June 15, 2010 at 7:30 a.m.

PIONEER TITLE AGENCY, INC. hereby reports that an examination of the title to the land described in Schedule A is vested as shown in Schedule A, subject to the liens, encumbrances, and defects as shown in Schedule B.

This is a report of status of title ONLY and is neither a guarantee of title, a commitment to insure or a policy of title insurance.

The total liability of the Agency is limited to the fee paid for this report.

### SCHEDULE A

- Title to the estate or interest covered by this report at the date hereof is vested in:
   Cochise County 1900, LLC, an Arizona Limited Liability Company
- 2. The estate or interest in the land hereinafter described in this report is a fee.
- 3. The land referred to in this report is situated in the County of Cochise, State of Arizona, and is described as follows:
  - Exhibit A attached hereto and made a part hereof.

PIONEER TITLE AGENCY, INC.

By laught Heiler /SAG/cdl

Authorized Officer or Agent

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COCHISE COUNTY
BOARD OF SUPERVISORS
2011 JAN 25 A 9: 30

### SCHEDULE B

(All recording data refer to records in the office of the County Recorder of the County in which the land is situated.)

1. Liabilities and Obligations imposed upon said land by reason of its inclusion with the following named district:

Palominas Fire District

Taxes and assessments collectible by the County Treasurer not yet due and payable for the following year:

Year

: 2010

- 3. Right of entry to prospect for, mine and remove the minerals in said land as reserved in Patent in said land.
- 4. The right of entry to prospect for, mine and remove an undivided ½ interest in and to all oil and gas in said land, as implied by the reservation of same in instrument:

Recorded in Book

: 147 of Deeds of Real Estate

Page

: 143

5. Easements and rights incident thereto, as set forth in instrument:

Recorded in Book

: 118, Deeds of Real Estate

Page

: 558

Purpose

: state highway

(Affects Section 33)

6. Easements and rights incident thereto, as set forth in instrument:

Recorded in Book

: 54, Miscellaneous Records

Page

: 15

Purpose

: line purposes

(Affects Section 33)

200 JAN 26 A 9: 30

7. Easements and rights incident thereto, as set forth in instrument:

Recorded in Book : 118, Deeds of Real Estate

Page : 557

Purpose : road purposes

(Affects Section 4)

8. Easements and rights incident thereto, as set forth in instrument:

Recorded in Book : 123, Deeds of Real Estate

Page : 549

Purpose : road purposes

(Affects Section 4)

9. Easements and rights incident thereto, as set forth in instrument:

Recorded in Book : 54, Miscellaneous Records

Page : 366

Purpose : line purposes

(Affects Section 4)

10. Easements and rights incident thereto, as set forth in instrument:

Recorded in Docket : 267
Page : 15

Purpose : road purposes

(Affects Section 4)

11. Easements and rights incident thereto, as set forth in instrument:

Recorded in Docket : 279
Page : 54

Purpose : line purposes

(Affects Section 4)

12. Easements and rights incident thereto, as set forth in instrument:

Recorded in Docket : 1690 Page : 24

Purpose : electric lines

13. Easements and rights incident thereto, as set forth in instrument:

Recorded in Document No. : 8807-13875

Purpose : communication facilities

70 / 30 / 3

14. Deed of Trust given to secure the original amount shown below, and any other amount payable under the terms thereof:

Amount:

\$1,330,000.00

Dated:

April 27, 2008 May 28, 2008

Recorded: Document No.

2008-14759

Trustor

Cochise County 1900, LLC, an Arizona Limited Liability Company

Trustee

Lee E. Esch, a member of the State Bar of Arizona

Beneficiary

Lee E. Esch and Evelyn R. Esch, husband and wife, as to an undivided 2/3 interest and Charles E. Roberts, Jr., Personal Representative of the Estate of Evelyn Roberts, Deceased, as to an undivided 1/3 interest

The BENEFICIAL INTEREST under said Deed of Trust was assigned by instrument:

Recorded:

November 17, 2008

Document No. 2008-30026

Assignee:

Charles E. Roberts, Jr. and Toni J. Phillips

15. Matters Shown on Survey:

Recorded in Book

41 of Surveys

Page

72

Recorded in Book

41 of Surveys

Page

73

Recorded in Book

41 of Surveys

Page

74

Recorded in Book

42 of Surveys

Page

24

16. Matters contained in the following document, relating to Restricted Air Space and Military Airport recorded in Document No. 2008-32809.

Tax Note:

Year

: 2009

Parcel No.

: 102-01-005-4

Total Tax

: \$ 48.12 (Paid)

Tax Note:

Year : 2009

Parcel No. : 102-34-001C-5

Total Tax : \$ 710.48
First Half : \$ Paid
Second Half : \$ Paid

(Covers more property)

2011 JAN 215 A 9: 3

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### Exhibit AB

### PARCEL I:

All Section 33, Township 23 South, Range 23 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona;

EXCEPT all coal and other minerals as reserved in Patent to said land.

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Also all of Section 33, Township 23 South, Range 23 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona.

EXCEPT all coal and other minerals as reserved in the patent of the land.

## EXHIBIT F

COCHISE COUNTY

DARD OF SUPERVISORS

#### 6

### TOPAZ DOMESTIC WATER IMPROVEMENT DISTRICT OF COCHISE COUNTY, ARIZONA

### VERIFICATION OF PROPERTY OWNER REGARDING SUFFICIENCY OF PETITION FOR ESTABLISHMENT OF IMPROVEMENT DISTRICT

STATE OF ARIZONA ) ss. COUNTY OF MARICOPA )	
COUNTY OF MALICOPA)	
I, the undersigned, being first duly sworn, on on Thome, am the Manager of Cochise County 1900, LL	
in the foregoing petition are true; that CC 1900 owns	
the proposed Topaz Domestic Water Improvement authorized and on behalf of CC 1900 I signed the fo	
real estate within the proposed District; and that I have	
petition and hereby verify that the signatures thereto are	
genuine signatures of the owners of land, or their aut	thorized representatives, within the
District.	
By Alah E. Thome, Manager	
Cochise County 1900, LLC	
Acknowledged before me this Aday of Manager, Cochise County 1900, LLC.	yasy, 2011, by Alan E. Thome,
Cheryl & Barker	CHERYL S. BARKES
Notary Public	Notary Public - Arizona
My commission expires on:	Maricopa County My Comm. Expires May 21, 2011

SOSIA SE SUSSIA

### **EXHIBIT F**

### VERIFICATION OF PROPERTY OWNER REGARDING SUFFICIENCY OF PETITION FOR ESTABLISHMENT OF IMPROVEMENT DISTRICT